**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 16647 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**DINESH S KANAKHARA - Petitioner(s)**
**Versus**
**STATE OF GUJARAT THRO.DIRECTOR & 2 - Respondent(s)**

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**Appearance :**
MR RC KAKKAD for Petitioner(s) : 1,
MS FALGUNI PATEL A.G.P. for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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**CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

**Date : 02/07/2007**

**ORAL JUDGMENT**

1. **RULE**. Ms. Falguni Patel learned A.G.P., waives service of rule on behalf of the respondents. At the request of the learned advocates for the parties, the

matter is taken up for final hearing today itself.

2. The only grievance of the petitioner is that the impugned order dated 21st June, 2006 at annexure-Y to the petition has been passed without hearing the petitioner. The record of the petition shows that the petitioner's deposit has been confiscated by the respondent authority. As such, the matter falls within the realm of the contract. However, since the principles of natural justice appears to have been violated, for limited purpose, the petition is entertained. The submission of Mr. Kakkad learned advocate for the petitioner is that the petitioner ought to have atleast afforded opportunity of hearing to the petitioner to explain and put-forth his case. That has not been done. According to him, the impugned order is lacking in details. Ms. Patel learned A.G.P., is not in a position to controvert the first submission. However, she has made an effort to support the order by submitting that the order is just and proper and it is required to be upheld.

3. I have carefully considered the averments made in the petition as also the submissions of the learned advocates for the parties. It clearly appears that principles of natural justice have been violated by

respondent no. 2, hence the said order is required to be quashed and it is hereby quashed and set aside and the matter is remanded to respondent no. 2 for his fresh consideration, after granting adequate opportunity of hearing to the petitioner. Respondent no. 2 is, therefore, directed to issue notice to the petitioner intimating him the date of hearing and permit him to appear in person or through his representative and after hearing him, pass appropriate order, strictly on merits of the case and in accordance with law. The decision that may be taken by respondent no. 2 shall be intimated to the petitioner within ten days from the date of the petition. The exercise to be completed on or before 30th September, 2007.

4. The petition is, therefore, partly allowed. Rule is made absolute to the aforesaid extent. Considering the urgency in the matter, the petitioner is permitted direct service.

[Akshay H. Mehta, J.]

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